Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 17 OCTOBER 12, 1983 No. 41

This issue contains:

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 83-198)

Bonds

Approval and discontinuance of Carrier's Bonds, Customs Form 3587

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: September 23, 1983.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Aloha Freight Forwarders, Inc., P.O. Box 4594, Downey, CA; motor carrier; Liberty Mutual Ins. Co.	Aug. 9, 1983	Sept. 1, 1983	Los Angeles, CA $50,000
Ashland Pipeline Co., c/o Philbin, Cazalas & Co., 624 Gravier Street, New Orleans, LA; pipeline carrier; Insurance Co. of North America. D 09/07/83	July 27, 1981	July 27, 1981	New Orleans, LA $120,000
Bradley Air Services Ltd and First Air registered trademark of Bradley Air Services Ltd; Carp Airport, Carp, Ontario, Canada; air carrier; Fireman's Fund Ins. Co. (PB 07/31/82) D 08/01/83 [1]	July 31, 1983	Aug. 3, 1983	Buffalo, N.Y. $25,000
Cast North America Ltd., 4150 Ste. Catherine West, Montreal, P.Q., Canada; motor carrier; Travelers Indemnity Co. D 11/09/83	Oct. 25, 1981	May 10, 1982	Ogdensburg, N.Y. $50,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Commercial Lovelace Motor Freight, Inc., 3400 Refugee Road, Columbus, Ohio; motor carrier; the Aetna Casualty & Surety Co. (PB 07/11/77) D 09/07/83 [2]	Sept. 6, 1983	Sept. 7, 1983	Cleveland, Ohio $50,000
Cook Motor Lines, Inc., 1016 Triplett Blvd., P.O. Box 370, Akron, Ohio; motor carrier; The Buckeye Union Ins. Co.	June 21, 1983	Sept. 13, 1983	Buffalo, N.Y. $40,000
Dairyland Transport, Inc., P.O. Box 1116, Wisconsin Rapids, WI; motor carrier; Employers Ins. of Wausau.	June 13, 1983	Sept. 12, 1983	St. Louis, MO $50,000
Direct Transportation system, Ltd; Two Tippett Road; Downsview, Ontario, Canada; motor carrier; Royal Ins. Co. of America. (PB 07/21/76) D 09/06/83 [3]	Aug. 17, 1983	Sept. 6, 1983	Seattle, WA $25,000
Dist-Trans Multi-Services, Inc., P.O. Box 7191, Charlotte, N.C.; motor carrier; American Casualty Co. of Reading, PA. D 09/12/83	June 3, 1981	June 16, 1981	Wilmington, N.C. $25,000
E & P Truck Co., Inc., P.O. Box 2065, Corpus Christi, TX; motor carrier; Ins. Co. of North America. D 09/15/83	May 26, 1964	May 27, 1964	Galveston, TX $10,000
First Air—SEE—Registered Trademark of Bradley Air Services, Ltd.			
Florida Rock & Tank Lines, Inc., P.O. Box 4667, Jacksonville, FL; motor carrier; Firemen's Ins. Co.	July 13, 1983	Sept. 14, 1983	Tampa, FL $25,000
Four Winds Van Lines, Inc., 4275 Campus Point Court, San Diego, CA; motor carrier; The American Ins. Co. (PB 12/15/82) D 08/31/83 [4]	July 22, 1983	Aug. 31, 1983	Baltimore, MD $50,000
High Sierra Express, Inc., 100 Giroux Street, POB 7040; Reno, Nevada; motor carrier; Firemen's Fund Ins. Co.	Apr. 4, 1983	Aug. 9, 1983	San Francisco, CA $25,000
J-Gem Transportation, P.O. Box 1227, Downey, CA; motor carrier; Firemen's Fund Ins. Co.	Sept. 8, 1983	Sept. 15, 1983	Los Angeles, CA $50,000
Motor Cargo, Inc., 845 West Center Street, North Salt Lake, UT; motor carrier; Commercial Union Ins.. (PB 03/26/76) D 08/08/83 [5]	July 9, 1983	Aug. 8, 1983	Los Angeles, CA $50,000
Ranger Nationwide, Inc., P.O. Box 19060, Jacksonville, FL; motor carrier; American Casualty Company of Reading, PA.	Sept. 2, 1983	Sept. 12, 1983	Tampa, FL $25,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Seaboard Coast Line Railroad Co., and Louisville & Nashville Railroad Co., joint lessees Carolina, Clinchfield, & Ohio Railway Carolina, Clinchfield & Ohio Railway of S.C., & Clinchfield Northern Railway of Kentucky, operating under the name of Clinchfield Railroad Co.; Erwin, TN; rail carrier; Safeco Ins. Co. D 09/08/83	Aug. 24, 1981	Aug. 24, 1981	New Orleans, LA $50,000
Su Mac Vacuum Service, Inc., Box 512, La Pryor, TX; motor carrier; Western Surety Co.	Sept. 7, 1983	Aug. 12, 1983	Laredo, TX $25,000
Tiger InterModal, Inc., 1888 Century Park East, Los Angeles, CA; motor carrier; The Aetna Casualty & Surety Co. (PB 07/09/81) D 07/08/83[6]	June 8, 1983	July 9, 1983	Los Angeles, CA $50,000
Trans-Border Customs Services Inc., 76 Main Street, Champlain, N.Y.; motor carrier; Old Republic Ins. Co.	Aug. 24, 1983	Sept. 13, 1983	Buffalo, N.Y. $25,000
Whitfield Tank Lines, Inc., P.O. Box 7676, Phoenix, AZ; motor carrier; Northwestern National Ins. Co.	Feb. 1, 1983	Sept. 1, 1983	Nogales, AZ $25,000

[1] Principal is Bradley Air Services, Ltd. Surety is Insurance Company of North America.
[2] Surety is the Ohio Casualty Insurance Company.
[3] Principal is Millar and Brown Ltd. Surety is Royal Globe Insurance Company.
[4] Surety is American Druggist's Insurance Company.
[5] Surety is TransAmerica Insurance Company.
[6] Surety is St. Paul Fire and Marine Insurance Company.

EDWARD B. GABLE, JR.,
Director,
Carriers, Drawback and Bonds Division.

(T.D. 83-199)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:
August 1-5, 1983 ..... $0.111857

Chile peso:	
August 1–4, 1983	$0.012579
August 5, 1983	.012523
Colombia peso:	
August 1–4, 1983	.012508
August 5, 1983	.012439
Greece drachma:	
August 1, 1983	.011772
August 2, 1983	.011786
August 3, 1983	.011751
August 4, 1983	.011675
August 5, 1983	.011455
Indonesia rupiah:	
August 1–4, 1983	.001018
August 5, 1983	.001016
Israel shekel:	
August 1, 1983	.019410
August 2, 1983	.019298
August 3–5, 1983	.019186
Peru sol:	
August 1–4, 1983	.000577
August 5, 1983	.000572
South Korea won:	
August 1, 1983	.001277
August 2–4, 1983	.001275
August 5, 1983	.001274

(LIQ–03–01 S:C:I)

Dated: August 5, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–200)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 8–12, 1983	$0.111857
Chile peso:	
August 8–11, 1983	.012523
August 12, 1983	.012500
Colombia peso:	
August 8–11, 1983	.012439
August 12, 1983	.012396
Greece drachma:	
August 8, 1983	.011351
August 9, 1983	.011357
August 10, 1983	.011242
August 11, 1983	.011136
August 12, 1983	.011117
Indonesia rupiah:	
August 8–11, 1983	.001016
August 12, 1983	.001014
Israel shekel:	
August 8, 1983	.019186
August 9, 1983	.018727
August 10, 1983	.017470
August 11, 1983	.017431
August 12, 1983	.017379
Peru sol:	
August 8–9, 1983	.000572
August 10–12, 1983	.000536
South Korea won:	
August 8, 1983	.001272
August 9–11, 1983	.001271
August 12, 1983	.001269

(LIQ-03-01 S:C:I)

Dated: August 12, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83-201)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for

the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 15–19, 1983	$0.111857
Chile peso:	
August 15–19, 1983	.012500
Colombia peso:	
August 15–18, 1983	.012396
August 19, 1983	.012327
Greece drachma:	
August 15, 1983	.011217
August 16, 1983	.011130
August 17–18, 1983	.011167
August 19, 1983	.011086
Indonesia rupiah:	
August 15–18, 1983	.001014
August 19, 1983	.001016
Israel shekel:	
August 15–16, 1983	.017361
August 17–19, 1983	.017343
Peru sol:	
August 15–18, 1983	.000536
August 19, 1983	.000520
South Korea won:	
August 15–19, 1983	.001269

(LIQ–03–01 S:C:I)

Dated: August 15, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–202)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 22–26, 1983	$0.111857
Chile peso	
August 22–26, 1983	.012500
Colombia peso:	
August 22–26, 1983	.012327
Greece drachma:	
August 22, 1983	.011050
August 23, 1983	.011086
August 24, 1983	.010995
August 25, 1983	.011001
August 26, 1983	.011001
Indonesia rupiah:	
August 22–26, 1983	.001016
Israel shekel:	
August 22–26, 1983	.017343
Peru sol:	
August 22–26, 1983	.000520
South Korea won:	
August 22–26, 1983	.001269

(LIQ–03–01 S:C:I)

Dated: August 26, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–203)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 USC 372 (c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:	
August 29–31, 1983	$0.111857
Chile peso:	
August 29–31, 1983	.012346
Colombia peso:	
August 29–31, 1983	.012273

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Greece drachma:	
August 29–30, 1983	$0.010823
August 31, 1983	.010770
Indonesia rupee:	
August 29–31, 1983	.001016
Israel shekel:	
August 29–31, 1983	.017343
Peru sol:	
August 29–31, 1983	.000512
South Korea won:	
August 29, 1983	.001260
August 30, 1983	.001266
August 31, 1983	.001265

(LIQ–03–01 S:C:I)

Dated: August 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–204)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83–161 for the following countries. Therefore, as to entries convering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria Schilling:	
August 5, 1983	$0.053043
Belgium franc:	
August 1, 1983	.018660
August 5, 1983	.018598
Brazil cruzeiro:	
August 1–3, 1983	.001634
August 4–5, 1983	.001597
Denmark krone:	
August 1, 1983	.103761
August 5, 1983	.103584

France franc:	
August 1, 1983	$0.124146
August 5, 1983	.123801
Germany mark:	
August 1, 1983	.373274
August 5, 1983	.372856
Ireland pound:	
August 5, 1983	$1.1765
Italy lira:	
August 5, 1983	.000628
Netherland guilder:	
August 5, 1983	.333333
Portugal escudo:	
August 5, 1983	.008104
Venezeula bolivar:	
August 1–4, 1983	.067568
August 5, 1983	.057143

(LIQ–03–01 S:C:I)

Dated: August 5, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–205)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83–161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 8, 1983	$0.052736
August 9, 1983	.052896
August 10, 1983	.052219
August 11, 1983	.052043
August 12, 1983	.052233
Belgium franc:	
August 8, 1983	.018525

August 9, 1983	$0.018563
August 10, 1983	.018342
August 11, 1983	.018288
August 12, 1983	.018332
Brazil cruzeiro:	
August 8–10, 1983	.001597
August 11–12, 1983	.001560
Denmark krone:	
August 8, 1983	.103082
August 9, 1983	.103386
August 10, 1983	.101989
August 11, 1983	.101626
August 12, 1983	.101989
France franc:	
August 8, 1983	.123259
August 9, 1983	.123564
August 10, 1983	.121981
August 11, 1983	.121551
August 12, 1983	.122100
Germany mark:	
August 8, 1983	.370975
August 9, 1983	.371816
August 10, 1983	.366999
August 11, 1983	.365657
August 12, 1983	.367107
Ireland pound:	
August 8, 1983	$1.1720
August 9, 1983	1.1745
August 10, 1983	1.1595
August 11, 1983	1.1550
August 12, 1983	1.1590
Italy lira:	
August 8, 1983	.000626
August 9, 1983	.000627
August 10, 1983	.000621
August 11–12, 1983	.000618
Netherlands guilders:	
August 8, 1983	.331950
August 9, 1983	.332668
August 10, 1983	.328192
August 11, 1983	.327118
August 12, 1983	.328138
Portugal escudo:	
August 8, 1983	.008097
August 10, 1983	.008068
August 11, 1983	.008016
August 12, 1983	.008029

Spain peseta:	
August 8, 1983	$0.006525
August 9, 1983	.006479
August 10, 1983	.006510
Sri Lanka rupee:	
August 12, 1983	.041220
Venezuela bolivar:	
August 8–11, 1983	.057143
August 12, 1983	.061728

(LIQ–03–01 S:C:I)

Dated: August 12, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–206)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83–161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 15, 1983	$0.052390
Belgium franc:	
August 15, 1983	.018409
Brazil cruzeiro:	
August 15–17, 1983	.001560
August 18–19, 1983	.001522
Denmark krone:	
August 15, 1983	.102276
France franc:	
August 15, 1983	.122654
Germany mark:	
August 15, 1983	.368868
Ireland pound:	
August 15, 1983	$1.1640

Italy lira:	
August 15, 1983	$0.000622
Netherlands guilder:	
August 15, 1983	.329598
Portugal escudo:	
August 15, 1983	.008065
Spain peseta:	
August 15, 1983	.006510
Sri Lanka rupee:	
August 15–18, 1983	.041220
August 19, 1983	.041203
Venezuela bolivar:	
August 15–18, 1983	.061728
August 19, 1983	.068027

(LIQ–03–01 S:C:I)

Dated: August 19, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–207)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83–161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Belgium franc:	
August 26, 1983	$0.018657
Brazil cruzeiro:	
August 22–25, 1983	.001522
August 26, 1983	.001490
Italy lira:	
August 26, 1983	.000628
Portugal escudo:	
August 26, 1983	.008097
Sri Lanka rupee:	
August 22–25, 1983	.041203
August 26, 1983	.041051

Venezuela bolivar:	
August 22–23, 1983	$0.068027
August 24–26, 1983	.071429

(LIQ–03–01 S:C:I)

Dated: August 26, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

(T.D. 83–208)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 USC 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 83–161 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:	
August 29, 1983	$0.053149
August 30, 1983	.052889
August 31, 1983	.052632
Belgium franc:	
August 29, 1983	.018570
August 30, 1983	.018491
August 31, 1983	.018440
Brazil cruzeiro:	
August 29–31, 1983	.001490
Denmark krona:	
August 29, 1983	.103493
August 30, 1983	.103263
August 31, 1983	.102965
France franc:	
August 29, 1983	.124023
August 30, 1983	.123594
August 31, 1983	.123229
Germany mark:	
August 29, 1983	.373134
August 30, 1983	.372024
August 31, 1983	.370782

Hong Kong dollar:	
August 30, 1983	$0.132626
August 31, 1983	.132538
Ireland pound:	
August 29, 1983	$1.1738
August 30, 1983	1.1700
August 31, 1983	1.1655
Italy lira:	
August 29, 1983	.000625
August 30, 1983	.000623
August 31, 1983	.000621
Netherlands guilder:	
August 29, 1983	.333333
August 30, 1983	.332502
August 31, 1983	.331236
Portugal escudo:	
August 29, 1983	.008097
August 30, 1983	.008052
August 31, 1983	.008006
Sri Lanka rupee:	
August 29–31, 1983	.041051
Venezuela bolivar:	
August 29–31, 1983	.066667

(LIQ-03-01 S:C:I)

Dated: August 31, 1983.

ANGELA DEGAETANO,
Chief,
Customs Information Exchange.

U.S. Customs Service

General Notice

19 CFR Parts 12 and 127

(T.D. 83-158)

Customs Regulations Amendments Relating to Special Classes of Merchandise; Delay of Effective Date

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of delay of effective date.

SUMMARY: In FR Doc. 83-20835 appearing as T.D. 83-158 on page 34734 in the issue of Monday, August 1, 1983, the Customs Regulations were amended to implement the Toxic Substances Control Act (TSCA). The effective date of these amendments, which relate to the importation of chemical substances into the customs territory of the United States, was stated to be October 1, 1983. Because importers of chemical substances anticipate difficulty in determining compliance requirements by that date, a request has been received to delay the effective date of the amendments. This extension will allow the Environmental Protection Agency sufficient time to issue a policy statement informing importers of TSCA rules. Customs and EPA believe that a delay of the effective date is warranted. Accordingly, this notice delays the effective date of the amendments until January 1, 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry Examination and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; 202-566-8651, or Jack McCarthy, Director, TSCA Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-511B, 401 M Street, SW., Washington, D.C. 20460,

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800-424-9065 (Toll Free), calls within the District of Columbia 554-1404, outside the United States; Operator—202-554-1404.

Dated: September 23, 1983.

JOHN P. SIMPSON,
Acting Assistant Commissioner,
(Commercial Operations).

[Published in the Federal Register, September 9, 1983 (48 FR 44771)]

U.S. Court of Appeals for the Federal Circuit

(Appeal No. 83-713)

SCHAPER MANUFACTURING CO. and A. EDDY GOLDFARB, D.B.A. A. EDDY GOLDFARB & ASSOCIATES, APPELLANTS *v.* U.S. INTERNATIONAL TRADE COMMISSION, SOMA TRADERS, LTD., ET AL., APPELLEES

(Decided: September 22, 1983)

Tom M. Schaumberg, of Washington, D.C., argued for appellants. With him on the brief were *Cecilia H. Gonzalez. Joseph Golant, Robert M. Ashen* and *Thomas D. Phillips*, of Los Angeles, California were on the brief for appellants.

Wayne Herrington, of Washington, D.C., argued for appellee International Trade Commission.

Lynn J. Alstadt, of Pittsburgh, Pennsylvania, argued for appellee Soma Traders, Ltd. With her on the brief was *Paul A. Beck, Lauren R. Howard, Jeffrey W. King* and *Michael A. Kershaw*, of Washington, D.C., were on the brief for appellee.

Before RICH, DAVIS and KASHIWA, *Circuit Judges.*

DAVIS, *Circuit Judge.*

Schaper Manufacturing Company (Schaper) and A. Eddy Goldfarb, d.b.a. A. Eddy Goldfarb and Associates (Goldfarb), seek review of the October 15, 1982 order of The United States International Trade Commission (ITC or Commission) which terminated the investigation in *In the Matter of Certain Miniature, Battery-Operated All-Terrain, Wheeled Vehicles*, Investigation No. 337-TA-122, USITC Pub. No. 1300, on the ground that there is no domestic "industry" affected by the alleged unfair trade practices. We affirm.

I

The investigation was initiated by appellants' filing of a complaint with the Commission on April 23, 1982, under Section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337).[1] The complaint alleged unfair methods of competition and unfair acts in the importation

[1] 19 U.S.C. § 1337 (1976) provides in pertinent part:

"Unfair practices in import trade

(a) Unfair methods of competition declared unlawful

Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section."

Section 337 was originally enacted as section 316 of the Tariff Act of 1922, and was reenacted in revised form as section 337 of the Tariff Act of 1930. It was then reenacted in revised form in the Trade Act of 1974, and substantially amended by the Trade Agreements Act of 1979 and the Customs Court Act of 1980. Throughout these revisions and reenactments, section 337(a), *supra*, has remained essentially unchanged.

into the United States, or sale here, of certain miniature, battery-operated, all-terrain wheeled vehicles (toy vehicles or Stomper vehicles), involving (1) infringement of U.S. Letters Patent 4,306,375 (the '375 patent) and (2) false designation of source by reason of the copying of appellants' vehicles. The complaint further alleged that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The Commission published a notice of investigation on May 19, 1982. 47 Fed. Reg. 21638, *amended* 47 Fed. Reg. 34864 (Aug. 11, 1982).[2] On October 15, 1982, the Commission issued its final determination that a section 337 violation did not exist, and filed an opinion supporting that determination four days later. The Commission concluded that "there is no violation of section 337 in this investigation because, given the particular facts of this case, complainants do not constitute 'an industry * * * in the United States' within the meaning of that phrase as used in section 337." [3]

The sole issue before us is whether the Commission properly so concluded, thus terminating the investigation.

II

Schaper is located in Minneapolis, Minnesota, and is engaged in the developing, manufacture and marketing of toy products. Goldfarb, situated in Northridge, California, invents toys and games which are then licensed to toy manufacturers. The toy vehicles here, marketed by Schaper under the trade name Stomper,[4] were invented in 1979 by Goldfarb. The '375 patent was obtained for these toy vehicles on December 22, 1981. Schaper was granted an exclusive license in 1979 to manufacture, use and sell the Stomper toy vehicles and accessories [5] (also created and designed by Goldfarb). Goldfarb has continued to develop successive lines of Stomper vehicles and accessories.

Schaper arranged for the manufacture of the Stomper vehicles by Kader Industrial Company (Kader), an unrelated firm in Hong Kong, from which Schaper procures the toys. After Schaper receives a new design from Goldfarb, it prepares specifications for

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[2] Thirteen parties were initially named as respondents in the notice, including Soma Traders, Ltd., and the other non-government appellees in the current case. The Commission subsequently terminated four respondents, three on the basis of a settlement agreement.

[3] The Commission initially referred the investigation to an administrative law judge, under its rules then in effect, and designated an attorney from its Unfair Import Investigations Division to act as investigative attorney. The ALJ's recommended determination was in appellants' favor—that a section 337 violation exists—after which the Commission held a hearing and issued its final determination. A petition for rehearing of the final determination, filed by the Commission investigative attorney, was denied.

[4] The Stomper vehicle is a four-wheel drive, battery-operated, all-terrain toy vehicle. It measures approximately four inches in length and two inches in height and width. The chassis houses the motor, gears, battery, and a light bulb (for simulated headlights). Four black, oversized tires are attached to the chassis by two axles. The chassis is the same on all Stomper models. Different models are created by attachment to the chassis of various plastic bodies designed to resemble real-life vehicles. The continuous battery-powered operation and four-wheel drive enable the vehicle to climb steep grades, clamber over objects, and pull loads.

[5] The accessories, such as toy logs, mountains, and racetracks, were designed to "enhance the play value" of the vehicles by demonstrating their climbing and pulling abilities. Some of the accessories are the subject of pending patent applications.

the toy and engineering drawings for the tooling to be used in the manufacture of that design. These specifications and drawings are forwarded to Kader, which manufactures the tooling and the vehicles according to Schaper's specifications. Schaper pays for, and retains ownership of, the tooling made and used by Kader in its production of the vehicles. Schaper maintains regular communication with Kader regarding the manufacturing of the toy vehicles. After Kader conducts a quality control program of the toys in Hong Kong, designed by Schaper, they are shipped to the United States on procurement by Schaper. Most are shipped to Schaper already packaged and essentially ready for sale in blister packs; the remaining are shipped in cellophane poly bags and become component parts of Stomper play sets along with accessories. On receipt from Kader, Schaper conducts more quality control testing.

Appellee Soma Traders, Ltd. (Soma) also imports toy vehicles from Hong Kong—allegedly copies of the Stomper toy vehicles—sold under the names "Super Climbers" and "Military Super Climber." The Soma toy vehicles are sold by toy wholesalers, including appellees Milton Myer Co., Inc., ESCO Imports, Pensick and Gordon, and Novelty Distributors Inc. There are no accessories sold by these appellees or specifically for the Soma vehicles.

III

Though the overall problem is whether appellants' domestic business activities constitute an "industry * * * in the United States," giving appellants the protections of section 337, the initial inquiry is what parts of these activities are to be considered, in this investigation, as included in an "industry * * * in the United States." We hold that the Commission properly disposed of that preliminary question.

First, the Commission correctly stated that the definition of "United States" is geographical and not based on citizenship. Section 337(j) defines "United States" as "the customs territory of the United States as defined in general headnote 2 of the Tariff Schedules of the United States (TSUS)." 19 U.S.C. § 1337(j). General headnote 2 of TSUS defines United States Customs territory as "the States, the District of Columbia, and Puerto Rico." In order to meet the threshold requirement of being an "industry * * * in the United States," the "industry" must be geographically located in the United States.

Second, we agree with the Commission that that portion of the appellants' business activities relating to production of the Stomper accessories, all of which occurs in the United States, cannot be considered part of any domestic Stomper toy vehicle industry for the purpose of meeting the "industry * * * in the United States" requirement. In cases under § 337 involving United States article patents, the relevant domestic "industry" extends only to articles which come within the claims of the patent relied on. *See Certain*

Molded-In Sandwich Panel Inserts and Methods for Their Installation, USITC Publication 1246 (May 1982); *Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Thereof,* 213 USPQ 291 (ITC 1981), relief modified 217 USPQ 179 (ITC 1981); *see also* 19 C.F.R. § 210.20(a).8(H) (1982). This is a well-settled rule of long standing. The House of Representatives committee report on section 337, when it was reconfirmed in 1974, supports this definition:

> In cases involving the claims of U.S. patents, the patent must be exploited by production in the United States, and the industry in the United States generally consists of the domestic operations of the patent owner, his assignees and licensees devoted to such exploitation of the patent.

H. Rep. No. 93-571, 93rd Cong. 1st Sess. 78 (1973).

Appellants' complaint alleged infringement of the '375 patent, which covers only the Stomper toy vehicles. The fact that the existence of the accessories derives from the toy vehicles does not make their domestic production by Schaper—regardless of the extent of Schaper's activities in manufacturing and producing them—a part of a toy vehicles industry in this action under section 337.[6] The accessories are not a necessary part of the vehicles, nor are they integral to them. Most of the appellants' vehicles are sold without the accessories; the latter do not come within the claims of the '375 patent; nor do they have the claimed product configuration of the Stomper toy vehicle. *See* footnote 8, *infra.* The Commission could rightly conclude from these facts that "the Stomper accessories cannot be part of any domestic industry in this investigation."

Third, we also agree with the Commission that appellant Goldfarb's activities cannot be considered part of any domestic "industry" relevant to this case. His activity concerning the Stomper toy vehicles is the design and licensing of the toy vehicles and accessories, and the collection of royalties; Goldfarb is not involved in the manufacture or selling of the vehicles.

The record shows that Goldfarb's activities with respect to the patented toy vehicles amount to nothing more than that of any inventor. There is nothing in the statute or its legislative history to indicate that such activities, which do not involve either manufacture or production or servicing of the patented item, are meant to be protected by section 337. As noted by the Commission in *Certain Ultra-Microtome Freezing Attachments,* 195 USPQ 653, 656 (ITC 1976), "[t]he wording of the statute itself adds to the conclusion that the statute protects only parties producing under the patent. To find a section 337 violation, the statute requires that the industry be 'efficiently and economically operated.' 'If the statute were

[6] Indeed, it is hard to imagine that Schaper's production of the accessories could be injured by the appellees' toy vehicles. Appellees produce and sell no comparable accessories, and all of the toy vehicles at issue apparently are compatible with Schaper's Stomper accessories. To whatever extent the market is expanded by the challenged toy vehicles. Schaper's accessory business seems to be helped rather than hurt.

addressed to the patent rights per se of a patentee, there would be no need for the test of efficiency and economy of operation.' " [Footnote omitted.] As we have pointed out, this has been the consistent, long-established Commission rule, and there is no reason to disturb it.[7]

IV

Having joined with the Commission that both the accessories and Goldfarb's activities should be eliminated from consideration, we focus on Schaper's domestic activities related to the Stomper toy vehicles. Section 337 does not expressly define an "industry * * * in the United States" for the purpose of determining whether a domestic industry has been injured. Both the legislative history of section 337 and past Commission decisions on those section 337 investigations that have been based on claims of patent infringement indicate that, in order to constitute an "industry * * * in the United States," the patent must be exploited by production in the United States. *See* Part III, *supra.* As quoted above, the House report accompanying the Trade Act of 1974 states that "the patent must be exploited by production in the United States, and the industry in the United States generally consists of the domestic operations of the patent owner, his assignees and licensees devoted to such exploitation of the patent." H. Rep. No. 93–571, 93d Cong. 1st Sess. 78 (1973).[8] The Commission in *Certain Ultra-Microtome Freezing Attachments, supra,* 195 USPQ at 656, likewise said that "[p]ast Commission decisions, from *Bakelite* [*Frischer & Co.* v. *Bakelite Corp.,* 39 F.2d 247 (CCPA 1930)] through *Electronic Pianos* [USITC Pub. 721 (March 1975)], have defined 'industry' in section 337 investigations as the domestic manufacture or production of the patented product by the patentee or his licensee." [9]

On this view, the nature and the extent of Schaper's domestic activities (in relation to the total production process of the Stomper toy vehicles) are insufficient to constitute an "industry * * * in the United States." The entire manufacturing of the toy vehicles occurs in Hong Kong, as does most of the packaging and quality control. Schaper purchases from Kader the toy vehicles, the great bulk of which are already packaged for sale in blister packs, and

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[7] Appellants rest on Goldfarb's general business of designing and inventing many kinds of toys (he has some 50–60 projects a year and has created over 1000 toys) for many firms, but most of this activity is, of course, unrelated in any way to the Stomper toy vehicle. Insofar as the claim is that Goldfarb has engaged in general "research and development" for the toy industry, the answers are that (a) in an investigation based on alleged infringement of a particular United States patent, the patentee's other activites are irrelevant, (b) the Commission has never considered "research and development" activities, standing alone, to constitute an "industry" under § 337, and (c) Schaper's activities together with Goldfarb's very different activities do not together constitute *an* "industry." It is also worth noting that Goldfarb's continuing design activities with respect to the Stomper vehicles relate to the tops which are not covered by the '375 patent—and they do not substantially involve Schaper's claims as to product configuration (which flows from the design of the chassis, not the tops).

[8] Although it was the Senate version of the revised section 337 that was enacted, neither the Senate nor House version amended section 337(a)'s "industry" requirement. This portion of the House Report was a recitation of past Commission practices. The Senate version does not recite this practice, but there is no reason to think that body rejected the House report's statement.

[9] *See also Certain Plug-In Blade Fuses,* USITC Pub. 1337 (Jan. 1983); *Certain Molded-In Sandwich Panels Inserts and Methods for Their Installation,* USITC Pub. 1246 (May 1982); *Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Therefor,* 213 USPQ 291 (ITC 1981); *Certain Surveying Devices,* USITC Pub. 1085 (July 1980); *Certain Multicellular Plastic Film,* USITC Pub. 987 (June 1979); *Certain Luggage Products,* USITC Pub. 932 (Nov. 1978); *Reclosable Plastic Bags,* USITC Pub. 801 (Jan. 1977).

imports them into the United States. Those that are not already in blister packs are imported in plastic bags, which are then placed in some of the boxes containing accessories. Schaper's inspection activities upon receipt in this country appear to involve ordinary sampling techniques. They are nothing like those in *Certain Cube Puzzles,* USITC Pub. 1334 (Jan. 1983), in which Ideal Toy's quality control, repair and packaging of imported cube puzzles was determined to constitute and "industry * * * in the United States." Unlike Ideal's large inspection and packaging operation in which half of the puzzle's value was added by Ideal's United States activities, Schaper has not shown its United States inspection activities to be substantially different from the random sampling and testing that a normal importer would perform upon receipt (and Schaper does no repairs). Also, Schaper's very large expenditures for advertising and promotion cannot be considered part of the production process. Were we to hold otherwise, few importers would fail the test of constituting a domestic industry. In addition, Schaper's monitoring [10] of Kader's manufacturing cannot be considered part of a domestic industry; it occurs in Hong Kong.

Nor are Schaper's activities comparable to the servicing and installation activities accepted in *Certain Airtight Cast Iron Stoves,* USITC Pub. 1126 (Jan. 1981) and *Certain Airless Paint Spray Pumps and Components Thereof,* USITC Pub. 1199 (Nov. 1981), in which substantial domestic repair and installation activities necessarily associated with imported stoves (in *Stoves*), and frequent domestic product servicing under warranties as well as some domestic production (in *Spray Pumps*), were found by the Commission sufficient to warrant determinations that the "industry" requirement was met. Although we agree that in proper cases "industry" may encompass more than the manufacturing of the patented item, we also believe that the Commission did not err in deciding that Schaper's activities in the United States are too minimal to be considered an "industry" under section 337. There is simply not enough significant value added domestically to the toy vehicles by Schaper's activities in this country (including design, inspection and packaging). The result is that the Commission's determination, which is consistent with its other holdings, is not erroneous as a legal matter or unsupported by substantial evidence, nor arbitrary or capricious (to the extent the question is within the agency's discretion).

We do not have to deal in this case, more precisely, with the limits of section 337's use of "industry * * * in the United States." [11] The Commission has not adopted appellant's proposed

[10] Not shown to be substantially different from that of an ordinary importer ordering and purchasing foreign goods to be manufactured abroad for importation into the United States.

[11] Nor do we have to decide the full nature and extent of servicing activities which may be sufficient to meet section 337's requirement. To determine the present case, it is enough that Schaper's activities can clearly be considered too small in this regard.

general definition that a "significant employment of American land, labor and capital for the creation of value" constitutes such an "industry," and the words, purposes, and history of section 337 do not compel that reading if it is meant to downplay the role of production and servicing in this country. As the statute now stands, Congress did not mean to protect American importers (like Schaper) who cause the imported item to be produced for them abroad and engage in relatively small non-promotional and non-financing activities in this country—*i.e.,* they engage in design and a small amount of inspection and packaging in this country.[12] If, as appellants suggest, present-day "economic realities" call for a broader definition to protect American interests (apparently including many of today's importers) it is for Congress, not the courts or the Commission, to legislate that policy.[13]

The Commission's order is

Affirmed

[12] In this case, the bulk of the land, labor and capital used for the creation of the value of the toy vehicles was utilized in Hong Kong, not the United States.

[13] We note, superfluously, that our recent decision in *Bally/Midway Mfg. Co.* v. *U.S. International Trade Commissioner,* No. 82-32, August 2, 1983, has no bearing on the present case.

United States Court of International Trade

Decisions of the United States Court of International Trade

(Slip Op. 83-93)

RONALD R. NAGY, PLAINTIFF *v.* RAYMOND J. DONOVAN, SECRETARY OF LABOR, U.S. DEPARTMENT OF LABOR, DEFENDANT

Court No. 81-4-00427

Before: RE, *Chief Judge.*

On the Court's Motion for Review of Administrative Determination Upon Agency Record

[Administrative determination of the Secretary of Labor denying certification of eligibility for worker adjustment assistance benefits affirmed.]

(Decided September 16, 1983)

Ronald R. Nagy, pro se.

J. Paul McGrath, Assistant Attorney General; *David M. Cohen,* Director, Commercial Litigation Branch *(Sheila N. Ziff),* for the defendant.

RE, *Chief Judge:* Plaintiff challenges the Secretary of Labor's denial of certification of eligibility for trade adjustment assistance benefits for the former employees of Detail Production Company, Ferndale, Michigan. Specifically, the Secretary of Labor found that plaintiff and his fellow workers were service workers employed by a firm that did not produce an article within the meaning of section 222(3) of the Trade Act of 1974, 19 U.S.C. § 2272(3) (1976). Hence, they were deemed ineligible for trade adjustment assistance benefits.

After reviewing the administrative record and the arguments of the parties, the court finds the Secretary's denial of certification supported by substantial evidence and in accordance with law.

On May 14, 1980, plaintiff, on behalf of himself and two other former employees of Detail Production Company (Detail), filed a petition with the Secretary of Labor (Secretary) for certification of eligibility for trade adjustment assistance benefits. Pursuant to section 221(a) of the Act, 19 U.S.C. § 2271(a) (1976) and 29 C.F.R. § 90.12 (1980), the Secretary published a notice of receipt of plaintiff's petition and the initiation of an investigation. 45 Fed. Reg. 40257 (1980).

Section 222 provides that the Secretary of Labor shall certify a petitioning group of workers as eligible for trade adjustment assistance benefits if he determines:

> (1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,
>
> (2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and
>
> (3) That increases of imports of articles like or directly competitive with *articles produced* by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production. [Emphasis added.]

Plaintiff's petition was denied because it failed to satisfy the third eligibility criterion, *i.e.,* plaintiff's employer, Detail, did not produce an article that was adversely affected by increased imports.

Plaintiff claims that the work performed by the employees at Detail is "automotive related," and thus, the workers were part of

the production process for new cars and trucks. Since their separation from employment allegedly was due to an increase in the importation of motor vehicles, plaintiff submits that Detail's employees are entitled to be certified as eligible for worker adjustment assistance benefits.

The Secretary's investigation disclosed that plaintiff's work activity at Detail consisted of splining blank four-wheel drive hubs provided by the Budd Company (Budd) which were returned to Budd for assembly into brake units for automobiles. Splining is a machine operation that cuts grooves or channels into the hub of a motor vehicle.

In denying certification of eligibility, the Secretary determined that the splining of hubs was a service and thus did not constitute the production of an article, as required by section 222 of the Trade Act of 1974. 46 FR 14495, 14496 (1981). Nevertheless, the Secretary stated that the workers at Detail could be certified if their separation from employment was caused importantly by a reduced demand for their serivices from a parent firm, *i.e.,* one which owned or otherwise substantially controlled Detail. In that event, the reduced demand for services must emanate from a production facility of the parent firm whose workers independently met the statutory criteria for certification. Furthermore, the reduction must relate directly to the product adversely affected by increased imports. The investigation disclosed that these conditions were not present for the petitioning workers. Thus, the Secretary concluded that they were not certifiable for eligibility for trade adjustment assistance benefits.

Thereafter, pursuant to section 284(a) of the Trade Act of 1974, 19 U.S.C. § 2395(a) (Supp. IV 1980), plaintiff commenced this action, by letter complaint, seeking judicial review of the Secretary's denial of certification.

On May 19, 1983, pursuant to Rule 56.1, the court, *sua sponte,* ordered that this action be deemed submitted on July 18, 1983 for review of the Secretary of Labor's determination upon the administrative record, and that the parties submit briefs addressing the relevant issues including:

> (1) Whether the plaintiff's employing firm was a firm that produced an import-impacted article within the meaning of section 222(3) of the Trade Act of 1974, 19 U.S.C. § 2272(3) (1976); and
>
> (2) Whether the Secretary's findings and resultant determination denying plaintiff's certification of eligibility for trade adjustment assistance pursuant to section 223 of the Trade Act of 1974, 19 U.S.C. § 2273 (1976), are supported by substantial evidence contained in the certified administrative record file with the court.

The purpose of judicial review of a decision by the Secretary of Labor denying a petition for certification of eligibility for trade ad-

justment assistance benefits is to assure that the Secretary's determination is supported by substantial evidence contained in the administrative record and is in accordance with law. 19 U.S.C. § 2395(b) (Supp. IV 1980). The ownership of Detail Production Company, and the nature of the work performed there, are not in dispute. The question presented, therefore, is whether, in finding that plaintiff was not eligible for benefits because the employing firm did not produce an import-impacted article, the Secretary of Labor correctly interpreted and applied section 222(3) of the Trade Act of 1974.

A review of the administrative record reveals that the Secretary could not certify the workers at Detail as eligible for trade adjustment assistance benefits based on plaintiff's claim that they produced an import-impacted article. The article in question, a hub, is a component of a motor vehicle brake system, and thus, could not be considered directly competitive with the import-impacted finished article, a four-wheel drive motor vehicle. *See United Shoe Workers, AFL-CIO* v. *Bedell,* 506 F. 2d 174 (D.C. Cir. 1974); *Machine Printers and Engravers Association* v. *Marshall,* 595 F. 2d 860 (D.C. Cir. 1979); *Morristown Magnavox Former Employees* v. *Marshall,* 671 F. 2d 194 (6th Cir. 1982); and *Gropper* v. *Donovan,* 6 CIT —, Slip Op. 83-86 (August 16, 1983).

Rather, the Secretary focused his investigation on plaintiff's claim that the employees at Detail should be certified as eligible for benefits because their work was "automotive related," *i.e.,* they performed tasks ancillary to the production of a finished article, a four-wheel drive vehicle.

The Secretary maintains that plaintiff and his fellow workers performed a service, and that the performance of a service does not constitute production of an article under section 222 of the Trade Act of 1974. The Secretary further contends that the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and the reduction must directly relate to the product adversely impacted by imports.

Prior cases have examined the question of whether services are "articles," within the meaning of the worker adjustment assistance eligibility requirement of section 222(3). *Fortin* v. *Marshall,* 608 F. 2d 525 (1st Cir. 1979); *Pemberton* v. *Marshall,* 639 F. 2d 798 (D.C. Cir. 1981); *Woodrum* v. *Donovan,* 5 CIT —, Slip Op. 83-43, 564 F. Supp. 826 (May 10, 1983); and *Miller* v. *Donovan,* 5 CIT —, Slip Op. 83-78 (July 27, 1983).

In *Fortin,* former employees of an airline who performed a variety of passenger, cargo, mechanical, administrative and managerial tasks appealed the denial of their petition for certification of eligibility for trade adjustment assistance benefits. The court held that services were not "articles" as that term is used in section 222, and affirmed the Secretary's finding. The court, in interpreting the

words of the statute, stated that "[w]hen read in the context of the entire Trade Act, * * * it becomes clear that the term 'article' was plainly meant to refer to a tangible thing and not to a service." *Fortin,* at 527. Thus, the court concluded that "[t]o interpret air transportation services as 'articles produced' within the meaning of 19 U.S.C. § 2272(3) is to strain severely, if not fracture, the statutory language." *Id.*

In *Pemberton,* the Court of Appeals affirmed the Secretary's decision that workers at a shipyard, whose work involved mainly repair and maintenance of marine vessels, were not involved in the creation of articles for purposes of the Trade Act of 1974 and, thus, were not eligible for trade adjustment assistance. The court in *Pemberton* made the following pertinent observation:

> The repair and maintenance of a ship is clearly a service to an existing commodity. Even if the repair necessitates the use of new materials, it cannot be said to be the creation of a new ship any more than overhauling an automobile can be said to be manufacturing a car. * * *
>
> *Fortin* * * * leaves no doubt that services do not fall within the terms of § 2272. * * * Appellants contend that *Fortin* is distinguishable because in that case nothing tangible was produced. In our situation, the service did involve a tangible item—a ship—but the *same* item was also the end product. There was no transformation, but a mere refurbishing of what already existed. [Emphasis in original.] [Footnote omitted.]

Pemberton, at 800.

These cases clearly demonstrate that the term "article," as used in section 222(3) of the Trade Act of 1974, does not embrace activity by a worker that does not result in the creation or manufacture of a tangible commodity, or that does not cause the transformation of an existing product into a new and different article.

There is no doubt that plaintiff's work, *i.e.,* splining, was performed on a tangible article. Nevertheless, plaintiff did not create or manufacture a tangible commodity, or transform it into a new and different article. The hub was clearly the beginning and the end product. Plaintiff and his co-workers merely serviced an already completed article, a hub, which was returned to the supplier, Budd, for assembly into brake units for four-wheel motor vehicles.

In two recent cases this court examined the question whether workers engaged in servicing automobiles were employed by a firm that produced an "article" within the meaning of section 222(3) of the Trade Act of 1974.

In *Woodrum,* plaintiffs, on behalf of the former employees of an automobile dealership, challenged a denial certification of eligibility for benefits under the worker adjustment assistance program. The Secretary denied certification for plaintiffs because they were employed by a firm that did not produce an article that was adversely affected by increased imports. Plaintiffs contended that nei-

ther *Fortin* nor *Pemberton* were applicable to their respective situations because, unlike them, the workers in those cases were not part of the production process. Plaintiffs further contended that, regardless of the nature of their work, the court should consider them as part of the production process for new automobiles because their labor was essential to the final delivery of those automobiles to the general public.

In rejecting plaintiffs' contentions, this court said:

> * * * It is clear that production under section 222(3) requires the manufacture or creation of something tangible. The *Pemberton* test is whether the workers in question transformed articles into new and different articles.
>
> It is difficult to quarrel with the reasoning of *Pemberton* for it cannot be questioned that "produce" means to give birth, create or bring into existence.
>
> There is no doubt that plaintiffs' work was performed on tangible articles, Chrysler cars. By their own admission, however, plaintiffs did not manufacture new articles. Rather, their work consisted of adjustments and preparation of the tangible article which was also the end product. As in *Pemberton,* plaintiffs Woodrum, Johnson and Dorsey merely made repairs and serviced already completed articles. There is no evidence which indicates that plaintiffs made substantial changes to the new Chrysler cars resulting in their transformation into a new end product. * * *

Woodrum, Slip Op. at 16–17.

Similarly, in *Miller,* this court affirmed the Secretary's determination that employees, whose work consisted solely of selling and servicing completed articles, *i.e.,* cars and trucks, were ineligible for trade adjustment assistance benefits inasmuch as they, too, were service workers who did not produce an import-impacted article.

From the foregoing, it is clear that plaintiff was not employed by a firm that produced an import-impacted article within the meaning of section 222(3) of the Trade Act of 1974. The record before the court fails to disclose any evidence that plaintiff performed any work that created or manufactured a tangible commodity, or that transformed an existing product into a new and different article.

Accordingly, it is the conclusion of the court that the Secretary of Labor's denial of certification is supported by substantial evidence and in accordance with law. The Secretary's determination is therefore affirmed.

(Slip Op. 83-94)

AMERICAN AIR PARCEL FORWARDING COMPANY, LTD., and E. C. MCAFEE COMPANY, PLAINTIFFS *v.* UNITED STATES OF AMERICA, U.S. CUSTOMS SERVICE, and THE COMMISSIONER OF CUSTOMS, DEFENDANTS

Court No. 83-7-00995

Before CARMAN, *Judge.*

Memorandum and Order

[Motion to dismiss all entries except Entry No. 337670 granted; Motion for preliminary injunction denied.] [Motion to dismiss action as to plaintiff E. C. McAfee denied without prejudice; Motion to dismiss Counts I and III of the complaint denied without prejudice.]

(September 20, 1983)

Sandler & Travis, P.A., (Leonard L. Rosenberg on the motion) for the plaintiff.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman,* Attorney in Charge, International Trade Field Office, Commercial Litigation Branch, *(Kenneth N. Wolf* on the motion) for the defendants.

CARMAN, *Judge:* This matter is before me on plaintiffs' motion for a preliminary injunction and defendants' motions for partial dismissal and/or partial summary judgment.

Plaintiffs request in their motion for a preliminary injunction, pursuant to Rule 65(a) of the Rules of the United States Court of International Trade, that this court:

> a. Cancel all liquidations occurring after October 17, 1980 of plaintiffs' entries of certain made-to-measure clothing exported from Hong Kong.
>
> b. Refrain from liquidating any of plaintiffs' entries of certain made-to-measure clothing exported from Hong Kong, in violation of Customs Ruling CLA-2: RRUCV 065056 CW TAA #10;
>
> c. Refrain from acting on any protests filed by plaintiffs or their sureties in connection with the liquidation of entries of certain made-to-measure clothing exported from Hong Kong;
>
> d. Refrain from implementing any directive, policy statement or ruling that would result in the liquidation of plaintiffs' entries of certain made-to-measure clothing exported from Hong Kong, or in the disposition of any pending protests filed by plaintiffs or their sureties in connection with the liquidation of such entries;
>
> e. Refrain from initiating any demands on the plaintiffs' sureties for payment of additional duties on entries of certain made-to-measure clothing exported from Hong Kong.

The parties in this case have stipulated to the following facts:

> 1. The plaintiff, AMERICAN AIR PARCEL FORWARDING COMPANY, LTD. ("AAP"), is a corporation organized and existing under the laws of Hong Kong.

2. The particulars regarding entry, liquidation and protest the specific entry of which is the subject of this action are as follows:

Entry No.	Entry date	Date of liquidation
337670	1/2/81	3/5/82

Protest Number: 3802-2-000672

Protest Filed: June 1, 1982

Protest Denied: April 21, 1983

3. All duties demanded of the importer at time of liquidation of Entry No. 337670 of January 2, 1981, have been paid prior to the filing of this action by a check drawn by AAP's surety, St. Paul Fire and Marine Insurance Company.

4. The merchandise which is the subject of this action is various items of wearing apparel.

5. On or about January 16, 1980, following discussions with plaintiff AAP regarding the valuation of the merchandise AAP imported from Hong Kong, the District Director of Customs, Detroit, Michigan, requested internal advice of Customs Service Headquarters pursuant to 19 C.F.R. § 177.11 regarding the appraisement of AAP's merchandise.

6. On October 17, 1980, in response to the aforesaid request for internal advice, the Director, Classification and Value, Headquarters issued a ruling identified as follows: CLA-2: RRUCA 065056CW TAA #10 (hereinafter referred to as "TAA #10"). (TAA #10 is also known as IA 25/80.)

7. On March 11, 1981, the Customs Service published TAA #10 in the CUSTOMS BULLETIN (15 Cust. Bull. & Dec., No. 10). TAA #10 was identified as C.S.D. 81-72 at the time of its publication.

8. Subsequent to the issuance of TAA #10, the Director, Classification and Value in San Francisco requested reconsideration of TAA #10 as it related to appraisement of merchandise on the basis of transaction value under Section 402(b), Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 and the Director, Classification and Value in Detroit submitted a memorandum to Customs Service Headquarters in Washington, D.C. in support thereof.

9. On July 23, 1981, Customs Service Headquarters in a ruling referred to as CLA-2: RRUCV, 542406 BLS, affirmed TAA #10.

10. On September 9, 1981, Customs Service Headquarters issued a telex directed to, *inter alia,* District Directors, San Francisco and Detroit, pertaining to TAA #10.

11. Neither plaintiffs nor the importing public were given prior notice of the telex dated September 9, 1981.

12. On October 19, 1981, Customs issued a ruling referred to as: CLA-2-CO:R:CV:V, 542643 TLL, TAA #40 (hereinafter referred to as TAA #40).

13. TAA #40 revoked TAA #10.

14. TAA #40 revoked TAA #10 retroactively, citing section 177.9(d) of the Customs Regulations (19 C.F.R. § 177.9(d) as authority for that action.

15. TAA #40 was never published in the CUSTOMS BULLETIN, *Federal Register,* or in any other publication which would give the general importing public notice of its contents.

16. The defendants did not seek the comments of the plaintiffs or the general public prior to the issuance of TAA #40.

17. Defendants did not publish a notice in the *Federal Register* or the CUSTOMS BULLETIN that #10 was under review.

18. Subsequent to the revocation of TAA #10, many entries made by the plaintiffs were liquidated at values two (2) to three (3) times as great as the entered values, thereby causing bills for increased duties to be issued in the amounts in excess of approximately $20,000 and $30,000 per entry.

19. The total increased duties due from the plaintiffs on or before October 18, 1983, is in excess of one million dollars ($1,000,000).

20. The duties due on October 18, 1983, are due in connection with protests denied on April 21, 1983.

21. Demands for payment of increased duties have been made upon plaintiffs' surety companies.

22. Plaintiff AAP has placed itself within the protection of the United States Bankruptcy Court.

23. Increased duties have been paid only as to Entry No. 337670.

JURISDICTION

Plaintiffs commenced this action on July 14, 1983,[1] to contest the United States Customs Service's (hereinafter "Customs Service") appraisement of Entry No. 337670 of made-to-measure clothing from Hong Kong dated January 2, 1981, to obtain judicial review of the Customs Service's alleged revocation of an internal advice decision TAA #10, and to seek an injunction as to Entry No. 337670 and other numerous entries.

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[1] Plaintiffs secured on August 31, 1982 from this court a preliminary injunction concerning the same items as the instant case, reinstating C.S.D. 81-72 (TAA #10) as initially promulgated and cancelling all prior liquidations not in accordance with C.S.D. 81-72 (TAA #10). *Amerian Air Parcel Forwarding Co.* v. *United States,* 4 CIT 94 (1982). Defendants subsequently, on January 19, 1983, 5 CIT —, Slip Op. 83-5, 557 F. Supp. 605, *appeal docketed,* No. 83-716 (Fed. Cir. Jan 23, 1983), secured a dissolution of the preliminary injunction and a dismissal of the action citing *United States* v. *Uniroyal, Inc.* 69 CCPA —, 687 F. 2d 467 (1982).

In *American Air Parcel, supra,* Judge Landis stated: "It is judicially apparent that where a litigant has access to this court under traditional means, such as 28 U.S.C. § 1581(a), it must avail itself of this avenue of approach complying with all the relevant prerequisites thereto. It cannot circumvent the prerequisites of 1581(a) by invoking jurisdiction under 1581(i) as the latter section was not intended to create any new causes of action not founded on other provisions of law." 557 F. Supp. at 607 (footnote omitted).

Plaintiffs also filed a suit in the United States District Court of Michigan, Southern Division, which plaintiffs characterized as identical to the case before Judge Landis. Judge Patricia Boyle dismissed this case and plaintiffs have moved for a rehearing before Judge Boyle.

It has been conceded by the defendants that this court has jurisdiction over Entry No. 337670 of January 2, 1981, pursuant to 28 U.S.C. § 1581(a) (Supp. V 1981) [2] since plaintiffs have exhausted their administrative remedies and paid the increased duties as to this entry. The defendants object to this court taking jurisdiction over other numerous and unspecified entries set forth by the plaintiffs.

With respect to the numerous and unspecified entries, although plaintiffs have exhausted their administrative remedies, they have not paid the additional duties that have been assessed. Since the tender of additional duties determined to be due on liquidation is a condition precedent to invoking the jurisdiction of this court pursuant to 28 U.S.C. § 2637(a) (Supp. V 1981),[3] this court lacks subject matter jurisdiction as to all entries for which the additional duties have not been paid. *United States* v. *Boe*, 64 CCPA 11, 18, C.A.D. 1177, 543 F.2d 151 (1976); *Dexter* v. *United States* 78 Cust. Ct. 179, C.R.D. 77-1, 424 F.Supp. 1069 (1977).

It has been argued by the plaintiffs that the circumstances of this case give rise to jurisdiction under 28 U.S.C. § 1581 (i)(4) (Supp. V 1981),[4] citing *Schaper Manufacturing Co.* v. *Regan*, 5 CIT—Slip Op. 83-58, 566 F.Supp. 894 (June 16, 1983).[5] Plaintiffs assert that they are seeking enforcement of regulations concerning the establishment and revocation of a uniform practice and specifically the process surrounding the revocation of TAA #10 thereby providing this court with subject matter jurisdiction. This court cannot agree with this assertion of jurisdiction.

In *United States* v. *Uniroyal Inc.*, 69 CCPA —, 687 F. 2d 467 (1982), the court clearly stated that 28 U.S.C. § 1581(i) cannot be used to circumvent the procedures of 28 U.S.C. 1581(a), and noted that the legislative history of section 1581 evidences Congress' intention that subsection (i) not be used generally to bypass administrative review by meaningful protest. An importer must file a protest, receive a denial of that protest and pay the assessed duties before the jurisdiction of this court can be invoked. Subject matter jurisdiction under section 1581(i) of a cause of action, which might

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[2] 28 U.S.C. § 1581(a) provides:

The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930.

[3] 28 U.S.C. § 2637(a) provides:

A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade only if all liquidated duties, charges or exactions have been paid at the time the action is commenced * * *.

[4] 28 U.S.C. § 1581(i)(4) provides:

(i) In addition to the jurisdiction conferred upon the Court of International Trade by subsections (a)-(h) of this section and subject to the exception set forth in subsection (j) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for—

* * * * * * *

(4) administration and enforcement with respect to the matters referred to in paragraphs (1)-(3) of this subsection and subsections (a)-(h) of this section.

[5] In *Schaper*, the issues involved regulation 19 C.F.R. 133.43 and statutes 19 U.S.C. § 66 and 1624 and their interrelationship. If jurisdiction was to be invoked in *Schaper*, it had to be found under section 1581(i) since the issues were not protestable or reviewable under any other section. The plaintiffs in *Schaper*, unlike the plaintiffs in the case at hand, did not have the availability of 28 U.S.C. § 1581(a).

otherwise be available under section 1581(a), lies only when the relief available under section 1581(a) is manifestly inadequate or necessary because of special circumstances to avoid extraordinary and unjustified delays caused by the exhaustion of administrative remedies. *United States Cane Sugar Refiners' Association* v. *Block,* 69 CCPA —, 683 F. 2d 399 (1982); *Lowa, Ltd.* v. *United States,* 5 CIT —, Slip Op. 83–15, 561 F. Supp. 441, (March 16, 1983), *appeal docketed,* No. 83–1018 (Fed. Cir. May 13, 1983). This court does not find that section 1581(a) is manifestly inadequate or that special circumstances exist in this case.

Therefore, defendants' motion for partial dismissal as it relates to entries other than Entry No. 337670 is granted.

Plaintiffs' Motion for Preliminary Injunction

Having determined that this court has subject matter jurisdiction only as to Entry No. 337670, the court now turns to plaintiffs' motion for a preliminary injunction as to that one entry.[6]

In order to prevail on a motion for a preliminary injunction, the petitioner must show (1) that without the relief requested the petitioner will be irreparably injured; (2) that there is a substantial liklihood of success on the merits; (3) that the issuance of the relief requested will not substantially harm other interested parties; and (4) that the public interest would be served by the relief requested. *S.J. Stile Assoc., Ltd.* v. *Snyder,* 68 CCPA 27, C.A.D. 1261, 646 F. 2d 522 (1981).

The plaintiffs have not shown that absent an injunction relating to Entry No. 337670, the only entry over which this court has jurisdiction, they will suffer immediate irreparable harm. The harm suffered by the plaintiff is that associated with increased duties as to Entry No. 337670, and this harm alone cannot be found to rise to the level of immediate irreparable harm demanding extraordinary equitable relief. Given the circumstances of the case, the requirement of the payment of duties, in which there is an established administrative process for the review of the assessment of those duties, cannot be seen as a threat of immediate irreparable harm. Only a viable threat of serious harm which cannot be undone authorizes exercise of a court's equitable power to enjoin before the

[6] Plaintiffs have argued that for purposes of equitable relief only, that is, the motion for preliminary injunction, this court can look to all entries identified to the court in order to maintain the status quo, citing *Zenith Radio Corp.* v. *United States,* 1 CIT 53, 505 F. Supp. 216 (1980).

The court cannot agree with the plaintiffs and cannot find authority in *Zenith* for taking jurisdiction over entries where the jurisdictional prerequisites have not been met merely because jurisdiction over one entry exists. As noted in *Dexter* v. *United States,* 78 Cust. Ct. 179, C.R.D. 77–1, 424 F. Supp. 1069 (1971), "[u]ntil the entries are liquidated and protests denied this court has no jurisdiction over them, not even by way of its jurisdiction over another entry of exactly the same merchandise." 78 Cust. Ct. at 181, 424 F. Supp. at 1071. *See also Flintkote Co.* v. *United States,* 82 Cust. Ct. 305 C.R.D. 79–5, 467 F. Supp. 626 (1979).

This court finds no authority to support the proposition that equitable powers can be used to expand the jurisdiction of the court. Plaintiffs assert that defendants' arguments are pre-1980; that is, they do not consider the enactment of 28 U.S.C. § 1585 (Supp. V 1981) which provides: "The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States." However, 28 U.S.C. § 1585 is not a jurisdictional grant, but merely a grant of equitable powers. Therefore, plaintiffs' argument must fail.

merits are fully determined. *Parks* v. *Dunlop*, 517 F. 2d 785 (5th Cir. 1975) (per curiam).

Plaintiffs argue that the action of the Customs Service imposing higher appraised values in accordance with the telex of September 9, 1981 and TAA #40 will drive them out of business causing immediate irreparable harm. However, a direct correlation between bankruptcy and the payment of duties as to this one entry over which this court has jurisdiction is at best speculative. The fact that the requirement by the Customs Service of the payment of duties will deteriorate the plaintiffs' financial situation cannot be seen as irreparable harm demanding the extraordinary remedy of a preliminary injunction.

Furthermore, the equitable powers of the court are properly invoked only when there is an inadequate remedy at law. *Younger* v. *Harris*, 401 U.S. 37, 43–44 (1971). In the case at hand, there is an adequate remedy at law. Plaintiff AAP caused to be tendered on its behalf liquidated duties in the amount of $38,222.46 as a result of the denial of the protest filed with respect to the action by Customs regarding Entry No. 337670, and the timely filing of a summons and complaint invoked this court's jurisdiction under 28 U.S.C. § 1581(a). With respect to this entry, an adequate remedy at law exists; that is, a money judgment refunding the duties paid. The payment of duties and the exhaustion of administrative remedies can also invoke this court's jurisdiction to review an alleged action of the Customs Service revoking an asserted uniform practice.

Therefore, given that plaintiffs' motion for a preliminary injunction must fail if any one of the prerequisites for a preliminary injunction has not been established by the plaintiffs, and this court cannot find an immediate threat of irreparable harm to the plaintiffs, plaintiffs' motion for a preliminary injunction must be denied.

Defendants' Motion to Dismiss Counts I and III of the Complaint and Defendants' Motion to Dismiss the Action as to Plaintiff E. C. McAfee Company.

In addition to defendants' motion to dismiss all entries other than Entry No. 337670, defendants' have moved that Counts I and III of the complaint be dismissed as well as the action be dismissed as it relates to plaintiff E. C. McAfee Company and Entry No. 337670 for lack of standing to prosecute. Defendants' also request in the alternative partial judgment on the pleadings and/or partial summary judgment as to Count I of plaintiffs' complaint insofar as it relates to the alleged revocation of a uniform practice.

Defendants' motion to dismiss Counts I and III of the complaint is denied without prejudice.

Defendants' motion to dismiss the action as to plaintiff E. C. McAfee Company for lack of standing to prosecute is denied without prejudice.

CONCLUSION

For the above-mentioned reasons, the court orders the following: (1) Defendants' motion to dismiss all entries except Entry No. 337670 is granted; (2) Plaintiffs' motion for a preliminary injunction is denied; (3) Defendants' motion to dismiss Counts I and III of the complaint is denied without prejudice; (4) Defendants' motion to dismiss the action as to plaintiff E. C. McAfee Company is denied without prejudice.

It is so ordered.

Decisions of the United States Court of International Trade

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *September, 22, 1983.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary here given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Item No. and Rate	Item No. and Rate		
P83/285	Landis, J. September 20, 1983	Uniroyal, Inc.	81-9-01329	Items 680.12 or 680.15 5.5%	Item 680.11 Free of duty	Uniroyal, Inc. v. U.S. Court Number 80-6-00946	New York Shoe machinery molds
P83/286	Neuman, J. September 21, 1983	Siemens Corp.	72-5-01093	Not stated	Item 685.90 8.5% refund of duties overpaid in the amount of $3,494.40	Agreed statement of facts	New York SVP-Tubes Entry No. 459592
P83/287	Boe, J. September 21, 1983	Sears, Roebuck and Co.	81-10-01372	Various TSUS numbers as set forth on attached Assessment/Claim Schedules	Items 678.5052, 684.25, 684.30, 685.24, 685.4052, 687.58, and 687.60 Various rates	U.S. v. Texas Instruments Inc. No. 81-23 3/25/82	Los Angeles; Seattle "Time of day" portion of radio tape players, microwave ovens, video cassette recorders and analog clock radios

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/616	Re, C.J. September 15, 1983	B & H Importing Corp.	78-8-01416	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/617	Re, C.J. September 15, 1983	Mitsui & Co. (USA), Inc.	73-10-02993, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Boston Not stated
R83/618	Re, C.J. September 15, 1983	Mitsui & Co. (USA), Inc.	73-11-03137, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Chicago Not stated
R83/619	Re, C.J. September 15, 1983	Starlight Trading, Inc.	77-11-04573, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R83/620	Re, C.J. September 19, 1983	Mitsui & Co. (USA), Inc.	73-3-00755, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New Orleans Not stated
R83/621	Re, C.J. September 19, 1983	Mitsui & Co. (USA), Inc.	75-9-02340, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Wilmington Not stated
R83/622	Watson, J. September 19, 1983	Allied International, Inc.	82-4-00441S	Cost of production	Invoice unit values plus agent's commission shown on entry papers not including additions for domestic insurance, inland freight, port expenses, and extra war risk insurance	Agreed statement of facts	Boston Hardboard
R83/623	Watson, J. September 19, 1983	Perkin Elmer Corporation	80-7-01042	Export value	Invoice unit prices net, packed or invoice unit prices plus percentages or additions for packing representing correct dutiable value. Said prices represent exporter's list prices less 35% discount	Agreed statement of facts	New York Various electrical instruments and accessories
R83/624	Re, C.J. September 20, 1983	Mitsui & Co. (USA), Inc.	75-10-02586	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Detroit Not stated
R83/625	Re, C.J. September 20, 1983	Mitsui & Co. (USA), Inc.	76-10-02337	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.D.S. Imports Corp. v. U.S. (C.D. 4739)	Chicago Not stated

R83/626	Re, C.J. September 20, 1983	Mitsui & Co. (USA), Inc.	78-4-00612, etc.	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Boston Not stated
R83/627	Re, C.J. September 20, 1983	Mitsui & Co. (USA), Inc.	79-8-01275	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Philadelphia Not stated
R83/628	Re, C.J. September 20, 1983	Starlight Trading Inc.	79-8-01277	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	New York Not stated
R83/629	Watson, J. September 20, 1983	Leslie Kleyman Corp.	R59/14415, etc.	United States value	Said dutiable values per lb. specified on attached schedule in column designated "Dutiable Value"	Agreed statement of facts	New York Thiourea
R83/630	Watson, J. September 20, 1983	Mitsui & Co. (USA), Inc.	81-11-01511	Transaction value	Invoice unit prices less included nondutiable charges for ocean freight and marine insurance	Agreed statement of facts	New York Steel mill products
R83/631	Watson, J. September 21, 1983	International Chemical Corp.	R61/11867, etc.	United States value	Said dutiable values per lb. on attached schedule in column designated "Dutiable Value"	Agreed statement of facts	New York Thiourea
R83/632	Watson, J. September 21, 1983	International Chemical Corp.	R61/19884, etc.	United States value	Said dutiable values per lb. on attached schedule in column designated "Dutiable Value"	Agreed statement of facts	Los Angeles Thiourea
R83/633	Watson, J. September 21, 1983	International Chemical Corp.	R64/4011	United States value	Said dutiable values per lb. on attached schedule in column designated "Dutiable Value"	Agreed statement of facts	Houston Thiourea

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U.S. Customs Service

Court of Appeals for the Federal Circuit

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